

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

RICHARD RAWLEIGH,

Petitioner

04-CV-0729S

v.

NEW YORK STATE DIVISION OF PAROLE,

Defendant.

DECISION AND ORDER

Pursuant to 28 U.S.C. § 636(c), the parties have consented to the assignment of this case to the undersigned to conduct all proceedings in this matter, including the entry of final judgment. Dkt. #20.

Petitioner Richard Rawleigh commenced this action, pursuant to 28 U.S.C. § 2254, challenging the revocation of his parole. Dkt. #4. By letter dated February 7, 2008, the Assistant Attorney General advised the Court that petitioner had been released from custody of the New York State Division of Parole on March 9, 2005. The New York State Department of Correctional Services Inmate Information Site confirms that petitioner was released from the Gowanda Correctional Facility on March 9, 2005. See <http://nysdocslookup.docs.state.ny.us>.

“Where, as here, a petitioner’s habeas petition challenges parole revocation proceedings, his petition becomes moot when he is released from custody

unless he is able to demonstrate collateral consequences stemming from the parole revocation proceedings.” *Razzoli v. U.S. Parole Commission*, 2004 WL 2367965 (2d Cir. 2004 (unpublished opinion), *citing* *Spencer v. Kenna*, 523 U.S. 1, 7 (1998); see *United States v. Propper*, 170 F.3d 345, 347-48 (2d Cir. 1999) (“an individual challenging the revocation of his parole – and whose term of re-incarceration has expired – bears the burden of demonstrating that some concrete and continuing injury continues to flow from the fact of the revocation.”).

Accordingly, it is hereby **ORDERED** that the petition be dismissed as moot unless petitioner demonstrates to the Court, within 30 days of the entry of this Decision and Order, that he continues to suffer consequences as a result of the revocation of his parole.

SO ORDERED.

DATED: Buffalo, New York
March 21, 2008

 /s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge